

## **REMARKS**

Prior to entry of this Amendment, Claims 1-11 and 36-44 were pending and under consideration. Claim 1 has been amended, and Claims 9-11 and 42-44 are being cancelled without prejudice to their reintroduction into this or one or more timely-filed related applications. Thus, after entry of this amendment, Claims 1-8 and 36-41 are pending.

### **Objection to the Oath or Declaration**

The declaration was objected to because the country of citizenship was not indicated for one of the inventors and because a docket number was altered. A new declaration is being prepared and will be provided at a later date.

### **The Amendments of the Specification**

The specification has been amended to include reference to Figure 3C-2. Basis for this amendment is found in the drawings as originally filed. The specification has been amended to correct a typographical error. This amendment does not introduce new matter.

### **Amendment to the Claims**

Claim 1 has been amended to clarify that the analog probe has not been treated to coat it with recombinase. Basis for this amendment can be found throughout the specification, for example, page 27 line 8 through page 29 line 13, in Figs. 1A, 1B and 1C. Claim 2 has been amended to clarify the antecedent basis for the first recombinase coated single stranded nucleic acid probe recited in Claim 1. No new matter is introduced by this amendment.

### **Objections to the Specification**

The specification was objected to for inappropriate references to Figure 3C-2. The specification has now been amended to include reference to this figure, thus obviating the objection.

**Rejection of Claims 1-8 and 36-41 Under 35 U.S.C. § 102(b)**

Claims 1-8 and 36-41 stand rejected under 35 U.S.C. § 102(b) as being allegedly anticipated by Dayn (U.S. Patent No. 5,929,043). Applicants traverse the rejection.

5 To anticipate a claim under 35 U.S.C § 102(b), a reference must teach every element of the rejected claims (MPEP § 2131).

The Dayn reference neither teaches nor suggests every element of the rejected claims. Specifically, Dayn does not teach or suggest the combination of an analog probe and a first recombinase coated single stranded nucleic acid probe, wherein the analog probe has not been treated to coat it with recombinase, as recited in amended Claim 1. All  
10 of the single-stranded probes described in Dayn are required to be recombinase coated (see, e.g., column 1 last paragraph and column 2). The Dyan reference provides no motivation to combine an analog probe, wherein the analog probe has not been treated to coat it with recombinase, with a first recombinase coated single stranded nucleic acid probe, as recited in Claim 1.

15 Accordingly, since the cited reference fails to teach each and every limitation of the rejected claims, Applicants request that the rejection of Claims 1-8 and 36-41 under 35 U.S.C § 102(b) be withdrawn.

**Conclusion**

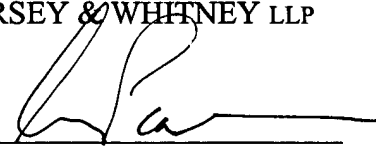
20 Applicants submit that amended Claims 1-8 and 36-41 satisfy all of the statutory requirements for patentability and are in condition for allowance. An early notification of the same is kindly solicited.

No fees beyond those being submitted concurrently with this Amendment are believed due. However, the Commissioner is authorized to charge any required fee, or credit any overpayment, to Dorsey & Whitney LLP Deposit Account No. 50-2319 (Order  
5 No. A-69625-1/AMP/JFB).

Respectfully submitted,

DORSEY & WHITNEY LLP

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